

JUSTICE



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His book, **The Nature of Man and His Government**, is an analysis of man's reliance upon the tool of government. A later work, **This Bread is Mine**, is a more detailed study. His views on government as a protective agency are published in the booklet, **Must We Depend Upon Political Protection?** Other articles and speeches have been published by Pine Tree Publications, including **The Philosophy of Ownership, Autarchy vs. Anarchy**, and **Constitutional Government Today in Soviet Russia**.

An increasing number of effective young libertarian writers and spokesmen are being influenced by his emphasis upon reasonable and voluntary methods of bringing about radical changes in human affairs.

M. White

JUSTICE

by

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The history of all known cultures and societies is the history of man's efforts to establish justice.

Among primitive peoples, ideas of justice tended to center about some theological view relative to the nature of things. At an early date, men detected a kind of balance in nature, and sought to order their social arrangements in such a way as to maintain that balance or to restore it if imbalance appeared. More advanced peoples have tried to condense their ideas of justice into written law. Government, a human invention which sanctions the use of force, is an offshoot of the theological root. Whereas theological concepts of justice are predicated upon revelation and the efforts of man to set forth God's laws for man, governmental concepts are predicated upon the use of reason and the setting forth of man-made concepts embodied in formal written codes.

One of the principal differences between the theological and the governmental approach to justice relates to enforcement. When men are content to live within a theological context exclusively, the matter of enforcement is presumed to rest in the hands of those forces which govern life and death, heaven or hell, God or devil. In short, enforcement is a "divine" prerogative, and God will undertake the ultimate reward or punishment. However, when men are no longer satisfied that such reward or punishment will be forthcoming, or when they become impatient with delays respecting matters of enforcement, they create governments, which act as a surrogate for theology and presume to reward and punish in the here and now rather than in the ultimate or the hereafter.

It is the purpose of this paper to challenge the entire concept of justice as it has

emerged from primitive times, in an effort to find a more practical and realistic manner of devising successful and rewarding social arrangements.

Ancient Egyptians were among the earliest peoples to accept the concept of a balance in nature. The God of Justice (Maat) had a balance as his symbol. According to the central idea upon which Egyptian justice was based, the pharaoh, either himself a god or acting as a vicar for the Egyptian divine pantheon, would weigh human behavior impartially. Whenever anyone had upset the balance of nature by any "unnatural" act (any act contrary to those approved by the pharaoh), it was the duty of the pharaoh to restore the balance, by using whatever force was necessary to put the scales back into equilibrium.

Hammurabi, the famous Babylonian law giver, devised a code of at least 282 laws, approximately one third of which invoked the death penalty. It was from Hammurabi that we obtained the well-known phrase, "an eye for an eye; a tooth for a tooth." Inscribed on the diorite stele proclaiming the Hammurabi code was the requirement that if an architect built a house which then collapsed, killing its occupants, the state would construct another house, put the architect and his family in it, and make the house collapse upon them.

The Mesa Verde Indians who occupied the territory in the Four Corners area of Colorado built kivas into which the males gathered to consider ways and means of keeping everything in balance. If a member of the tribe had disobeyed a taboo, the spirit of the supreme deity was supposed to emerge from the hole in the center of the floor of the kiva to pronounce whatever expiation the miscreant would be forced to experience.

Many stone-age peoples, believing that even the killing of an animal for food upset the natural balance to some extent, devised various rituals and dances wherein they could beg forgiveness in advance of the hunt, by explaining that they were not angry with their "little brother" the deer, and meant him no harm. They simply had to eat. Therefore, they attempted to placate the Manitou (correct the imbalance to be caused by the hunt) before the hunt occurred.

In thousands of tribes and in hundreds of thousands of clans, this concept of maintaining or restoring the natural balance led to an insensible acceptance of the idea that justice is the result of retroactive effort. What other method could be devised by means of which human beings could group themselves into some kind of social order and maintain that order? When primitive ways of doing things were gradually replaced by more advanced methodology; when reliance upon political structures began to supplant reliance upon mysticism and tribal superstition, the deeply inculcated concept of "an eye for an eye and a tooth for a tooth" continued.

All governments at the present time are erected upon this concept. Governments, in the only practical sense that matters, are simply legalistic structures designed to restore the balance which has been lost through some action taken by an erring individual.

Many people suppose that governments are agencies of protection, but this is not the case except to the extent that government may act to protect the concept of equitable retaliation. Governments are simply the sanctioned tools of delayed vengeance.

Many persons today are concerned about the obvious fact that governments have grown beyond all anticipated limits. But even as they strive to deal with the problem of reducing or even eliminating government in some areas, they are left with the fundamental concept of "an eye for an eye and a tooth for a tooth."

Some have suggested that private agencies, acting in the market place by means of some sort of "voluntary" payment for services rendered, could perform the services government now renders in what is called "protection." A study of the efforts which have been made periodically to establish "vigilance" committees or to deal otherwise with retaliation and retribution on a private basis, does not paint a bright picture. Any agency which acts to capture and then enforce punishment upon anyone for any reason, takes on all the trappings of a state, whatever it may be called. And the viciousness and depravity of those who conduct feuds, vendettas, and "vigilance" retribution in an effort to deal with crime in the absence of government leave most people longing for the relatively more predictable vicious actions of a sanctioned legalistic structure.

In short, the entire experience of man to date as he strives for justice is an unhappy one. It is unhappy primarily because violence has become and continues to be the only accepted method of dealing with the violence of injustice. Whether that violence is legally sanctioned, or applied at random and by private parties, offers little comfort or variation in the central theme.

Examine the history of all revolutionary movements. A revolution begins within a given country when one or more groups of persons become disenchanted with the particular way in which a given government is employing force. The revolution takes as its objective the overthrow of a particular group or class which is presumed to have power. If success crowns the revolutionary effort, the revolutionists find themselves in a position of power. Even if anarchists, who profess to want no government at all, were successful in a violent overthrow of a given government, the result would be a shift of power into their hands, rather than an abolition of reliance upon violence.

The illegal use of violence in the hands of anarchists is no more attractive than the legal use of violence in the hands of statist. **What is at fault here is the central belief, deeply imbedded in the human mores, that we must have some use of force in order to obtain retribution or even a new social arrangement.**

It isn't necessary to go as far as revolution before we detect the philosophic absurdity of seeking to employ violence as a means of establishing justice. Since justice is invariably lost by some type of violence, either overt or covert, the employment of the same tool to bring a restoration of justice can certainly be questioned. To make this absurdity clearly visible, the real character of justice among men should first be discussed.

Man is a decision maker. Each individual exercises a natural control over his own mind and body. Man is a living organism, entirely dependent upon his environment for the physical means of sustaining his life. Therefore, in addition to exercising control over his own person, both mind and body, man must exercise his decision-making ability over some of the elements in his environment. He must be able to

exclude the rest of the world so that he can peacefully consume (exclusively use) the necessities and comforts he requires.

Any kind of social arrangement wherein individuals are able to exercise their own undisputed control of themselves and the necessary elements in their environment, constitutes human justice. The only viable theory or practice men have been able to conceive of which has led to peaceful exercise of dominion over certain elements in their environment relates to the ownership of property. Thus, the elements in an individual's environment over which he may exercise dominion are limited to those elements which he owns.

I have already explored the nature of ownership fairly extensively in an 87-page booklet, **Philosophy of Ownership** (Pine Tree Press, 1966), and I will not repeat that argument here. I will simply summarize by stating that men control property in two ways. They can control property by taking possession of it through force. This method is called **possession**. Or they can control property by acquiring it through **rights**. The method of acquiring and using property based upon rights is the only method which includes the concept of justice. When men acquire property from other men by the use of force, there is no consideration of what is right or wrong. But when men acquire property by just methods, there is reliance upon a moral procedure which contains the element of justice.

The entire concept of justice as it relates to men is a social concept which specifies that certain types of procedures are right, and certain other types are wrong. The question of justice does not arise when we are concerned with a single person. A man on a desert island has no reason to concern himself with justice. The question of justice cannot appear in the practices of an individual man upon himself. The question of justice and, in like manner, the question of morality in all its aspects, are meaningful only where two or more men appear. Thus, the moral theater, in which the question of justice can arise, is the sphere of activity in which human relationships between two or more persons are possible.

If a moral condition is to pertain, and this means that a condition of justice is possible, two or more persons must be in contact with each other, and each of them must refrain from molesting the person or property of the other. Justice would consist of an exercise of sovereign control over a person and his property, by that person himself. It would include a willingness on the part of each to impose self-discipline so that neither sought to interfere with the control the other person naturally exercises over his own person and property.

The element of justice, like any other moral concept, is possible only in a situation where injustice or immorality is possible. Justice and all elements of morality are conceivable only under conditions which rely exclusively upon voluntary choices. If a person, who by nature is sovereign over himself, is compelled by force to retain properties he wishes to dispose of, or is prevented by force from acquiring properties he wishes to acquire, and assuming that each person with whom he seeks to exchange is likewise in sovereign control of himself and what is his, then such intrusion of force creates injustice and immorality.

The element of force need not be total to create a situation of injustice. Thus, if two persons exchange goods or services at a price other than the one they would



voluntarily accept, even though the exchange does occur, the element of injustice has appeared.

All actions classified as crime relate to exchanges wherein some measure of force is used. Whether we are talking about murder, rape, theft, arson, embezzlement, extortion, burglary, fraud, or any other criminal act, including price control, all that is entailed in the final analysis is the use of force which takes a property (service, good, or relationship), or any portion thereof, against the will of the owner.

I will define all criminal actions of whatever degree of severity as acts of molestation. And I will define any act of molestation as consisting of a **violation of the will of an owner with respect to something he owns**. If a man agrees to work for \$10 per day and his employer then pays him only \$9.00, the worker is the victim of molestation to that degree. If an employer agrees to pay a worker \$10 per day but is compelled by force to pay \$11, the employer is the victim of molestation to that degree. If a man is willing to buy a product for \$5.00 but is compelled by force to pay \$5.25, he is the victim of molestation. If a seller is willing to sell an item for \$5.00 but is compelled by force to part with it for \$4.75, then he has become the victim.

Any exchange that occurs without totally voluntary acceptance on both sides is an exchange that involves some measure of molestation, immorality, and injustice.

The fundamental concept of justice as it has been practiced both theologically and politically, rarely includes the assumption that most men will seek to act on the basis of their own decisions with respect to their own persons and properties if given a chance. The entire concept is predicated upon the assumption that acts of

injustice will occur and that it is the duty of either God or Government to use force to restore the natural balance.

There is no way in which force can be relied upon to restore natural balance once it has been lost. There is no possible method that can recreate the condition — not only the physical condition but the values of the individuals involved — that existed prior to the original act of injustice. An act of injustice, however tragic, tips the scales in favor of one party and against the other. To attempt to put conditions back as they were before the original act of injustice is to create arbitrarily a secondary form of injustice which not only does not restore the balance, it creates a new imbalance in which the prior victim may be benefitted unnaturally. In process, usually, all other members of society are injured to some degree. This is the invariable rule when government is used as the agency to bring a belated justice by force. The single victim is now joined by all members of society who are compelled to pay for the services rendered even though they were neither victims nor beneficiaries under the original act of injustice.

To understand fully why this is so, an examination of what are called **rights** is in order.

The concept of rights is a derivative of the concept of property ownership. What it means is that the owner of the property may do as he pleases with what is his. The only limitation upon him is the recognition that his right to do as he pleases with his own property does not bestow on him a right to impose his will respecting his property on any other person or property.

To grasp the concept of rights, which is abstract and extraordinarily sophisticated, it is helpful to compare it with another abstract concept that means something else, so that we can grasp what a **right is**, while at the same time discovering what a **right is not**.

The correct antonym of **right** is **privilege**. A right is anything that a person may morally do, without asking permission of someone else. A privilege is something a person may morally do, after he has obtained permission. Thus, the concept of rights is prior to and superior to privilege. The person granting permission or bestowing privilege has rights. The person requesting permission or privilege does not; hence, he seeks approval where, lacking it, he would be classed as a molestor. In other words, the person lacking a right and seeking at the same time to retain a moral and just position for himself, seeks the voluntary approval of his action from the person who is in a superior position, a position involving rights.

There is a great deal of misunderstanding about the word **rights**. Some contend that the concept is meaningless since it appears that the possession of a right guarantees nothing. But this is not the case. The only guarantee that a right bestows is the moral guarantee. We often say that a man has the right to live. Yet we know that he will ultimately die. When we say that he has a right to live, we do not guarantee that he will live. We merely guarantee that his right to live is sustained by moral rather than by physical means. In other words, we are saying that IF he can manage to live, the act of living, per se, can be moral. It is not immoral for him to survive. Nor does he need to obtain permission from someone else for him to survive morally. He is not a piece of property owned by another. He owns himself,

and thus may properly do as he pleases with himself, within his own property boundaries.

We say that a man who acquires a property obtains a "bundle" of rights over that property. This does not mean that he is guaranteed against losing the property. Rather, he is guaranteed that his decisions over that property, and limited to it, are moral. He could lose his property. But he could not lose his moral position of control over that property.

The concept of rights is an extremely important and sophisticated abstraction. In essence, it spells out that all men have an equal moral position. That is to say that all men may rightfully (morally) control property — their persons or extensions of property over and beyond their persons. In this regard, all men are capable of moral procedures. Thus, we say that all men have equal rights — equal claims to acceptance of their behavior respecting their own properties.

In no way does this argument imply that all men have a right to equal amounts of property. That would be an absurdity. It merely affirms that when a man obtains a property morally, he becomes the rightful (moral) decision maker over it. Whatever he decides to do with that property, he cannot be wrong, provided he limits his decision to his own property. That is to say, he may keep, sell, give away, use up, invest, or destroy whatever is his, without being morally challenged.

Since it is obvious that this concept applies to each member of the human race, it is at once evident that rights are both equal and unalienable. A man may lose his life or any given property. But he may not lose his moral claim to his own life or his own property. His moral position as a human being remains intact. His rights cannot be alienated, transferred, or lost. Nor can he acquire additional rights that are not bestowed upon him by his own nature as a human being.

A man may decide to exchange a property for something else. When he does so, he gives up dominion over **that** property, precisely because he does not transfer his right to property. That right cannot be transferred. The party to whom he transferred the property has the same rights he has. He assumes dominion over the transferred property, but by such assumption he does not acquire more rights than he had before. He simply acquires more property than he had before. All rights were his in advance. His moral position is the same, with or without the property.

If a property is taken from a man against his will, that man is the victim of an act of molestation. He has not lost his **rights**. He has lost his ability to control that property, but his moral position vis a vis the property remains intact. A man may be put to death by another. But in process he does not lose his right to life; that remains intact. He loses his life, and the intrusion on his person resulting in death is an act of molestation. A person's ability to exercise control of any given property may be wrested from him. But his moral position may not be.

If these points are thoroughly understood, then the position of government as it presumes to take properties or lives of other people against their wills can be seen as fundamental and deliberate acts of injustice. To presume that government can act by violence to correct private acts of injustice, and at the same time act within a moral context, is a philosophic absurdity. Fundamental here is the concept that the government has a right that is superior to those rights held by each person. For the



fundamental notion in all retributive justice is that the government can exercise violence **rightfully**. And this is to say that an act which would be wrongful if committed by a private citizen is somehow made rightful, moral, and just if only the government does it.

This presumption is false on its face. Government is only a group of men. And the men in government have no more natural right to impose their wills on other men than the other men have. To suppose, as is often presumed in democratic or republican countries, that governments obtain their rightful power from the governed, does not help us resolve the problem. For if governments do obtain their rightful power from the governed, no one of the governed has any right over a single one of his neighbors, and therefore he is not capable of bestowing a right he does not have himself, upon any other man or body of men. Therefore, government can obtain only those rightful privileges which the individual, having rights, voluntarily decides to grant to the government. And since no man has a right in himself to impose his will upon any other person or any other person's property, the government has no more moral justification for an act of vengeance than any man possesses, or could obtain.

It is sometimes argued that the market place would be able to perform justifiable acts of retaliation, even though it is admitted that governments may not. But this is to suppose that a body of men called, perhaps, the Acme Protection Company, could receive from its customers a right to impose its will upon other men in accordance with the wishes of its customers. No such right exists. To presume that

men can transfer to a private company a rightful power that they cannot transfer to the state or to anyone else, is a patent falsehood.

To presume that a right can be transferred or lost is to presume that rights do not arise from the nature of man but rather that they arise from the nature of human conduct. Such an assumption would also establish that rights are not universal, but merely acquired privileges that are bestowed, by some process or other, upon certain men who behave according to some set of rules. Other men, being unacquainted with these rules, or unwilling to abide by them, would be seen at once to have no rights at all. This concept immediately divides humanity into two species: those with "rights" (actually, privileges) and those without. And a man might then believe that it would be immoral for a man who was unacquainted with the accepted rules to survive.

Since nature has made no such division, although this is precisely what governments have attempted to establish, it would become imperative to learn by what mystical process some men are endowed with the right to make rules over other men, which right the other men do not possess. In short, since rights are prior to and superior to privilege, to presume a world in which some are privileged and some are not, must presume some force above the privileged which has a right to bestow privilege.

When men attempt to grapple with the logic of the concept of rights and tentatively accept the inevitable conclusions of that logic, they are left with a major problem. The problem does not destroy the logic; it underlines its importance. The fact is that we live in a world comprised of imperfect people. Many of the people who are now alive, who have been alive in the past, or who conceivably will be alive in the future, have not understood and never will understand the concept of rights. They have very little understanding of moral procedures, even if they acknowledge the possibility of morality.

I have been told repeatedly that what I have to say about rights is idealistic but impractical. It is obvious that some men will continue to act immorally. They will create conditions that are unjust and vicious. And what can we do with respect to these people who have committed acts of molestation, or who may commit them? If we have no right to molest them to restore the natural balance, or even to punish them for their wrongful behavior, are we not placing ourselves entirely at the mercy of the most vicious and the most depraved? In fact, I am even told on occasion that a man has a duty (to whom isn't specified, but society is implied) to punish the wrongdoer. But I have no more duty to society to rid it of molesters than I have to provide everyone a job, feed the poor, or convince everyone of the validity of the concept of rights. I may wish to assume some such obligation, but unless or until I make such an assumption, no obligation exists.

Further, for me to assume that I must punish the molestor is for me to presume that I have some innate moral superiority over him and thus may rightfully impose my will upon him, when in fact my reason for objecting to his past conduct relates to actions in which he presumed an identical position for himself. He would not be a molestor if he had not attempted or succeeded in imposing his will on another by some use of, or the threat to use, force. When I undertake to deal with him by the

same means he has employed, I put myself at his level. I am in fact saying by my actions: molestation is wrong when you do it; but it is right when I do it, for the very reason that it is wrong when you do it.

If an act of molestation is wrong, it is wrong intrinsically and not because of the name of the person, the race of the person, the beliefs of the person, or any other modifier that could be introduced.

But we are still left with the problem. And certainly a person who believes in and subscribes to the concept of rights may be confronted with the actions of a person who is a molestor, who is unjust and immoral, and who is seeking to obtain an advantage over him by imposing force.

A radical and profound change in thinking is required. For ten thousand years or more, we have striven to retaliate against those who practice injustice or who we have been led to believe practice injustice. We have done it privately. We have done it through theology. And today, government is the god of retribution, and we employ it on a giant scale.

The amount of time and energy expended in seeking to retaliate is incalculable. All wars contain this element. Most of our court actions contain it. Our prisons and other penal institutions are full of it. None of these procedures is economically sound. None of them is moral. None of them has been successful. Retribution, vengeance, punishment, and retaliation are the greatest burden human beings have ever devised for themselves.

Therefore, I am going to suggest that we stop **thinking** retribution and begin **thinking** protection. Men act on the basis of their deepest convictions. When we



begin to understand that most of our major human failures deal in retribution, we will perhaps be ready to consider a better way of thinking about the problem.

Another factor must be considered at this point. There is no method presently conceivable by means of which a perfect condition could be created here on earth in relation to protection or anything else. Nothing we can devise will remove the possibility of error or malfunction. However well we labor, some criminals will appear, some protective device or method will break down, something will go wrong somewhere. I can think of no panacea, no magic formula which would, by its nature, preclude malfunction. What I am attempting to do in this paper is to outline a way of thinking which would lead to a practice with fewer breakdowns and fewer malfunctions than our current system of retribution and retaliation employing violence.

Having turned all questions relating to the use of violence over to government, we have become vague and indistinct in our thinking about coercion. Most people tend to consider protection, defense, retaliation, retribution, punishment, vengeance, and the like, all part and parcel of the same thing. Most tend to make a completely arbitrary division in matters employing force and violence. The person who commits the first act of violence is usually termed the aggressor. He is presumed wrong. The person who becomes violent in his reaction is termed the defender. He is presumed right and moral. Beyond this simplistic approach, very few people have thought at all.

Actually, we have several concepts at work in the foregoing. **Protection** consists of those methods, devices, or practices adopted in advance of any act of molestation which serve to prevent molestation from occurring. If protection exists, molestation does not occur. If it does occur, protection did not exist. Thus, protection and molestation are mutually exclusive terms. No one wishes to be molested. It is reasonable to assume that all persons wish protection so as to avoid molestation at any time by anyone.

Defense is an active word relating to what the intended victim of an act of molestation does during the time he is being threatened or molested. It is his effort to prevent or terminate the molestation or to reduce its effect.

Retaliation is a word relating to the actions initiated by the victim of molestation against his molestor, after the molestation has terminated. It could be called a secondary or delayed aggression.

Retribution is a recompense given to a victim or exacted by him when he gains power over his former molestor.

Restitution is usually used to indicate a return of property or conditions approximating the original situation of balance existing prior to molestation.

Punishment is whatever is done over and above restitution. Thus, in addition to putting things back into balance, the former victim frequently believes that he must administer a lesson to the molestor. He may punish in various ways, including prison terms, physical duress, torture, or confiscation of the molestor's property.

Vengeance is a term usually employed to indicate an emotional thirst for retaliation which will end in punishment of a presumed molestor.

In all of the foregoing, there can be no question but what protection is an entirely moral concept, for it does not depend upon any act of molestation whatever.

Consistent with the right of a person to own his own person or property would be a right for him to protect it from harm. It would be obvious that a person has no right to protect himself at the expense of another against the will of the other. If a man wishes to put locks on his doors, he must be willing to pay for them himself. If he wishes to build a fence or a wall about his property, the fence or wall must be on his own land, and he must pay for it with his own funds.

If two men have a mutual interest in protection, there is no reason why they cannot both pay a portion of the cost of whatever it is they desire in the way of protection. So long as a voluntary understanding is first obtained, there is nothing wrong with commingling funds for purposes of protection. Thus, if a community of one hundred persons all desire to hire a guard or several guards, or desire to install devices of mutual protection, they may do so and pro-rate the costs among them as they see fit. But if only ninety-nine out of the one hundred in the community desire protection, and the one does not, the one may not rightfully be forced to provide what he does not want. Also, he is not entitled to whatever protection the others provide for themselves.

Those providing for certain types of protection willingly and at their own expense may argue that an unpaid-for advantage accrues to the one who does not pay. But if morality and a sense of justice are to prevail, it must be realized that the arc lights that illumine the streets, although desirable in the minds of most as a method for reducing the likelihood of molestation, may be undesirable from the standpoint of the man who does not want to pay for protection. He may not rightfully be forced to pay for something he views as unnecessary or disadvantageous, whatever others may feel about it.

Thus, if a community of one hundred find one member of the community unwilling to pay "his share" for street lights, and they employ force (legal or otherwise) to compel that payment, they are engaged in an act of molestation which they would probably, through long custom, label as collective protection. The act of forcing payment is an act of molestation. Although it might result in a lessening of risk to the other members of the community, that is a separate action and must be considered in its own context. What we have in this illustration is a type of gang molestation upon an innocent victim whose only crime is that he has a set of values different from those of his neighbors. Any action that forces him to accept their values in place of his own, victimizes him no matter how it is rationalized.

What I am attempting to show is that by relying upon protection exclusively, we remain in the area of justice. While it is conceivable that some men may gain more and others less, while some will have a great deal to protect and others very little, no one has to experience molestation.

The alleged "benefit" of street lighting, as a form of protection, does not actually molest the life or property of the person who doesn't wish to pay for it. He can draw his blinds if the lighting offends him, and meanwhile the costs to the others who want it are not raised. It is true, of course, that their costs could have been reduced by his participation. But assuming a sense of justice, they must have been willing to pay for the entire cost of the lighting without the participation of the

dissenting individual. He has not imposed on them. They have not imposed on him by putting in the lighting.

How do we think about protection? We think about it by considering in advance what type or amount of molestation is likely to appear and then taking steps in advance to forestall or prevent it from occurring.

This is a far different way of thinking than planning extensively about what shall be done to the person who commits molestation. In the first instance, each is concerned with his own life and property, and assumes full responsibility for what is his. In the second instance, each begins to concern himself with the life and property of others and tries to devise various ways of injuring other persons who have been guilty of some offense, or may commit some offense.

Will protection work? In actual fact, it does work a great deal of the time. There is no way of tabulating the number of wrongful acts which have been prevented, forestalled, or otherwise nullified by various protective measures.

Protection is a service that can be and is being provided in the market place. In the face of mounting taxation, market-place protection has become a growth industry in this country and in Britain. This means that people have found it worthwhile to buy protection in the market after they have already been taxed to pay for the retribution which government offers in lieu of protection. They are compelled to pay the taxes. But after they have done so, they recognize that they remain unprotected and hence are willing to purchase protection privately.

I will not take the time here to tabulate the various and sundry devices and schemes by means of which the market place is beginning to deal extensively in the area of protection. These methods range all the way from the hiring of night watchmen or other sentry-type personnel to the installation of warning devices, photo-electric eyes, closed-circuit television, noise makers, lights, various types of sprays used both as repellents and markers, dogs, geese, snakes, and even lions and jaguars. Insurance is being used more widely than before to recompense those who suffer loss. Better locks are being devised. "Theft-proof" vehicles are being designed. The public is clamoring for protection because at long last it has discovered that government is not able to provide protection. This fact was highlighted during the last year of President Johnson's administration when he announced during a speech heard nationwide on TV that there ought to be a law compelling everyone to protect himself.

But what happens when a person does all in his power to protect himself and, in spite of that, he finds himself the victim of molestation? The answer is the same as it would be in the face of any other market-place good or service. If you buy a suit of clothes that unravels, an automobile that breaks down, or a can of dog food that is rancid, you don't call the police; you switch your patronage. You patronize a supplier who will provide something more satisfactory. The market does not offer perfection in anything, and it cannot offer perfection when it comes to protection. But if the individual limits his concern to his own life and property, or to the lives and properties of his family and those immediately dependent upon him, he can make himself safe to the degree that safety is possible. Also, if he stops supposing that he owes something to society to apprehend and punish the wrongdoer, and



confines himself to controlling himself and what is his, then he has moved into an area where success can crown his efforts nearly totally.

This is what I mean by THINKING protection. And may I emphasize that this method of procedure positively eliminates any necessity for government or any other agency of retribution. It will cause protection agencies to multiply. But it will abandon retribution, retaliation, vengeance, and punishment as being both immoral and impractical.

But the individual whose mind has been conditioned by the deeply imbedded mores relating to retribution will probably not be satisfied. He will still return to the fray by insisting that should he be confronted by an assailant, or find a loved one in the grip of a would-be kidnapper, rapist, or murderer, he will consider it entirely moral to attack the molestor and if necessary to kill him.

Certainly, in the face of an emotionally charged situation, any one of us can abandon all principles, and rationalize the abandonment to his own satisfaction. But that ability does not alter either fact or principle. If it is an act of molestation for **A** to impose his will on **B**, it is equally molestation if **B** imposes his will on **A**. The argument that an action which if first committed by **A** is wrong, becomes right when committed by **B**, is spurious and will not hold. If the disregard of the right of another individual is a wrongful act, then this is universally true, regardless of circumstances. **Circumstances do not alter principles.**

I am well aware of the fact that human beings are emotional creatures. They have a strong sense of right and wrong. When they find themselves being molested, their emotions flare and they desire not only to prevent the molestation, but also to

JUSTIFY whatever it is they do in process. After all, the person who INITIATED the molestation is wrong. What then is wrong with retaliating with equal or greater force? In some cases, there might be no other way of preventing further molestation on the part of the original offender.

In short, when an individual finds himself being victimized, he not only wishes to terminate that victimization, but he wishes to obtain moral sanction, the concept of rights, for his conduct, whatever it may be.

This is where the real test of character emerges. A man who refrains from molesting another when he is not being victimized, attains no special moral position. He is simply conducting himself properly, along the lines dictated by proprietorship. The question of character emerges under provocation. Will the individual hold himself above molestation even when he is being provoked? This question cannot be answered except by the individual himself during an event wherein he finds himself being provoked. The individual who refuses to retaliate even when he is being victimized, raises himself to a level above his tormentor.

To presume that a person can descend to the level of molesting others and at the same time retain his moral stance, is to presume that the concept of rights is flexible and that morality is based on value judgments rather than upon a scientific footing that would have to be objective. It is also to presume that one's **rightful** conduct is based not upon his own actions but upon the actions of others. If another does wrong, then it is presumed that I am **right** if I perform the same act. My conduct, which morally would exclude molestation, may now rightfully include molestation if only someone else is wrong first. This leads us to the fascinating assumption that one wrong is wrong but that a second wrong makes a right. But one and one is two, not zero.

It is upon this fallacy that all government and the legal practice of retributive justice are based.

The task of the moral person is to maintain his own standards and his own position of non-molestation, irrespective of what others may do. This is admittedly difficult. But it is far from impossible, provided only that we do not give way to our emotions.

If reason is more reliable than emotion and is a better tool than force, must we abandon reason to take up inferior tools? The only reason we are even tempted in this area relates to long ages of conditioning in which we have abandoned the market place in matters of protection and have relied upon some "big brother" concept.

Big brother, whether in the agency of church, state, or vigilance committees, does not protect. It simply waits until someone has been injured, and then it sets about restoring the balance while injuring all and sundry.

When an act of molestation has occurred, there is no way at all wherein the conditions can be set back exactly as they were before the act occurred. Imbalance is present. The task of any student of liberty is to see to it that no further imbalance occurs.

You might look at it this way. A man commits an act of molestation by expending 100 units of his energy aggressively against another man. The first man is wrong by

100 units of energy. The second man is the victim to that degree. Now, what should the second man do?

Speaking both from a moral standpoint and from the standpoint of pure economic theory, misused energy is already wasted. Our task is to prevent further waste. Therefore, the victim of the 100 units of energy exerted against him will provide the most economical and the most moral result if he does his best to prevent any further waste of energy. He acts as a ground to an electric circuit. The misdirected energy is shorted out. Conflict ceases. But if the second man is not aware of his ability to ground that current, he may emotionally decide that his task is to release a corresponding amount of energy, 100 units, in retaliation. Now we have 200 units of misdirected energy. The amount of waste is doubled.

Additionally, the original aggressor, finding himself opposed, will in all probability increase the amount of energy he has already misdirected. He puts in another 100 units. The second man does the same. We now have a confirmed conflict, which if continued will lead to a battle if not to a war. If it does, then the amount of waste grows by fantastic sums until one side is reduced to impotence, and the other side now imposes its will upon the first without fear of opposition.

This is the manner in which human beings have behaved under governments for about ten thousand years.

If the second man can begin the process of moving the first man's misdirected energy to an area of reason (a process that must occur sooner or later), and if he can do so without involving force, then he has demonstrated his ability to ground out a charge of wasted energy. This may not always be possible. But it is always desirable. And it is always moral.

What I am concerned with here is not so much what the victim of the above act of aggression may do, but with the necessity of retaining intellectual integrity while he does it. If he descends to the level of his assailant, to the place where he is engaged in counter-aggression, then his action is immoral. However emotionally justified he may seem to be in his own eyes, he has no more right over the offending party than that party had over him in the first place. I recognize that under pressures of emotion any man is susceptible to the call of the jungle. But let us avoid the intellectual dishonesty of presuming that we are moral when we are merely scared. What the victim of the first act should do morally is to respect the rights of the man who has not showed that respect to him. You do not treat the immoral man with immorality. You treat him to morality, and retain your own position of rightness. You limit the offense to the party who is guilty. You do not seek to take guilt on yourself.

How do we do this? We endeavor by all means known to us to reduce the aggression or the conflict to an area of communication. Can this always be done? Of course not. If a youngster of two smashes your expensive vase, you can't always explain to him why his action was wrong. He doesn't understand. But you certainly don't beat him to a pulp. You recognize his INFERIOR position, and you maintain your position of moral superiority. You do NOT smash something of his to prove that you are capable of the same non-reasoning behavior he has evinced.

A grown man who inflicts damage on you for no reason that you can discern has evinced the mentality of a two-year-old. But if you understand morality, you don't

plunge to his level to prove that you are no better than he is. You maintain your superiority.

All may not agree with what I am about to say here, but I have found a most helpful tool which I can use and have used successfully. This is the tool of mercy and forgiveness. To be kind, gentle, and forgiving to those who have been aggressive and brutal to you is a most effective method of procedure. I know of nothing that so quickly isolates the aggressor and makes it easy for him to see himself as he really is. I am not suggesting this as a principle; the principle of self-control and non-molestation has already been offered. But if you can adopt an attitude of self-esteem that is consistent enough, you will eliminate any "need" or craving for retaliation, by taking a position of mercy. Such an attitude will positively avoid the possibility of counter-molestation. Additionally, this attitude will usually hold the door open so that the aggressor will find it easy to change his method of operation.

Will this solve every problem? The result is not guaranteed, except to this extent. **Your** position is right. His is **wrong**. And, further, anyone present, or who becomes acquainted with the facts later, will invariably be on your side of the matter.

Let me give an example. A man hires a worker for his factory. The worker undergoes training and is finally put on the assembly line. He makes a mistake in judgment, and \$10,000 worth of costly raw materials must be junked. What does the employer do? Does he summon the police? Does he beat up the offending worker? The chances are excellent that he does neither. He has experienced loss of a large order. But he reduces the matter to communication, reprimands the worker, probably with considerable heat, and then, if the employer believes that the worker may still prove valuable, he swallows his pride and pockets his loss and sends the man back to work. Or he discharges the employee, and looks for another worker. That is the market-place method of extending mercy.

Another example: You buy a suit. It costs you \$150. It is guaranteed against defects. You step out of the shop wearing it, and the seams rip open. What do you do? Call the police? Go back and beat up the salesman? Why not? You lost \$150, plus a great deal of time and inconvenience.

The chances are good that you may go back to the shop and seek a return of your money or a better suit in exchange. What if the proprietor of the shop will not oblige you? You will from that moment avoid his store, and you will tell your friends to avoid it, also. You seek a better shop. That is the market-place way of communicating displeasure.

Now start thinking protection. You hire a watchman. You install locks. You put in noisemakers to drive away an intruder. In spite of these things, you are victimized. What do you do? Most people would call the police. The market place would instead suggest that you hire a better watchman, put in better locks, or get louder noisemakers. Your task is to mind your own business, not seek to compel the rest of the world to accept your standards of morality. You pocket your loss (which, as a matter of fact, you will probably have to do anyway even if you call the police), and you **think protection**, not retaliation or vengeance. And knowing in advance that we live in an imperfect world, you direct your mental energy into the future by trying to make yourself safe rather than directing your energy into the past in an effort to get

even. No matter how you do it, and no matter whom you employ to get even, there is no way you can restore the balance once imbalance has been imposed.

In this particular, a few of my friends have come forward with what we call "life-boat" situations. What is meant by this phrase is that an extreme condition is imagined in an effort to test the validity of the concept of rights and of morality.

The traditional life-boat situation calls for two men in a life boat who find they have supplies sufficient for only one person. If one man dies, the other will probably make port. If both attempt it, both will die. The argument discusses the relative merits of having one man kill the other so that at least one survives, as opposed to the possibility that both will die.

The moral man will NOT impose his will upon his companion even under this circumstance. He has no right over the other man's person. He cannot obtain that right. If one man elects to kill himself, that is his business. But no moral man will kill the other, even to save his own life.

Other life-boat situations which invoke the use of **reductio ad absurdum** (logic) are as follows:

1. You are imprisoned against your will, and handcuffs are put on you. The handcuffs are not your property. Do you have a right to break that property belonging to another?
2. You are walking along peacefully, and someone puts a knife into your abdomen. Do you have a right to remove that knife? It is not your property.



3. A man shoots you. The bullet is inside your body. Do you have a right to remove the bullet, which is not your property?

The question is the same in each case. The different examples are used for the purpose of testing one's emotional rather than his logical stance. Exactly the same question would be this one. A man drives his car into your driveway and leaves it there without your permission. What right does this give you over his car?

In each of the above cases, the first thing that must be ascertained is whether the victim is capable of communication. In the first instance, and in the matter of the car, communication is possible if the rightful owner of the trespassing property can be found. In the case of the knife or the bullet, the question of ability to communicate is uppermost. Obviously, in either of these cases if the victim is unconscious or otherwise incapable of communication, the question is academic. Since he cannot communicate, communication will not occur. But assuming the ability to communicate, it should be undertaken. There would be many ways of proceeding. But the only rational method discoverable involves the ability to communicate.

The first line of communication, whether it is to be conducted by a police officer, a judge, a personal friend, or the victim himself, would be to try to find the reason for the act of aggression in the first place. This is a task that the reasonable man can undertake for himself, unless he is incapacitated.

In spite of the high opinion we tend to have of ourselves, an inquiry will usually elicit a reason for the act of aggression. It may be a good or a bad reason. But it probably exists, even if the party inflicting the injury is insane. In that case, the reason would probably be totally invalid. Nonetheless, it would exist. Whatever a man does, he does for a reason. It would be important to ascertain that reason.

The second step in the communication process would be to establish to the aggressor that his action (1) was not necessary, and (2) will not accomplish the end he seeks.

The third step that I would personally recommend is to extend mercy to him and forgive him. There is probably nothing the individual could do which would be more thoroughly devastating in establishing the wrongfulness of the act of molestation and the moral superiority of the victim.

But what if none of these things work? In that case, probably nothing else would work, either. If a man is in such a position of power over you that he has you handcuffed, has a knife or a bullet in you, or a car on your property, the chances are good that there is nothing you can do about it anyway.

Does this mean that you are condemned by the principle enunciated to go the rest of your life in handcuffs (they are not your property); or with a knife or a bullet in you (they are not your property either); or with a stranger's car (not your property) parked in your yard? Are you simply the victim, impotent and helpless because the nature of the act of molestation against you is such that your only possible moral course is to do nothing?

In examining the question of rights, a positive line has been drawn. You have no rights over the person or property of another. He has no rights over your person or property. But if we were to act on this basis exclusively, even simple communication would be extremely difficult.

A man decides to visit a friend. He goes up the walk to the front door of the man's home and rings the door bell. **He has no right to walk on that property or to ring that bell.** His friend may not want to see him. Would this be an act of molestation?

Two men are crossing the street while having an earnest conversation. A truck bears down on them, and one man, seeing the danger, forcefully grabs his friend and pulls him to safety. **He has no right over the person of his friend.** Is this an act of molestation?

A man detects that the roof of a building is burning. He goes to the door to acquaint the occupant with the news, but there is no one at home. In consequence, he calls the fire department (a private agency, owned and operated by an insurance company), and assists in seeing that the fire is extinguished. **This man has no right over the home that was burned.** Is this an act of molestation?

In ordinary human relationships, we act on the basis of presumptions when we do not know the facts. In each of the foregoing situations, the acting man did not have any right in respect to the person or property of the other party. But he presumed, because of the nature of the action he took, that the party with the rights, the owner, would approve of the actions taken and, indeed, would applaud those actions. In each case, such a presumption could have been in error. But, nonetheless, that is the precise practice most of us would both enact and recommend.

Now, reverting to the life-boat situations, there is an equally valid presumption. The molestor, knowing in advance that he was committing an act of aggression, and therefore that the victim would disapprove of the action, must not have wanted to keep his property safe as much as he wished to inflict harm. He would therefore have reasoned that he would willingly risk the loss of the property involved, in an effort to perform injury.

In using the handcuffs, the knife, or the gun, the molestor was in fact offering a gift to his victim. There is no moral law that demands acceptance of a gift. Quite properly, the victim could remove the handcuffs, the knife, or the bullet and return them to the owner (assuming he is known) with the explanation that the gift is not welcome and has been returned for that reason.

With the vehicle, the method is identical. The first step would be to find out if the car was intended as a gift. This would include the return of the property to the former owner if the recipient did not wish to accept it. However, if the victim finds that the car has been parked on his property for its nuisance value, it would be proper for him to inform his molestor that he will either remove it to some neutral spot (it could not simply be pushed into the street without causing innocent people inconvenience), or return it to its proper owner.

By treating an unwelcome property as an unwelcome gift, you can return the property to its owner. Whenever you are in receipt of an unwelcome piece of property, it is a safe presumption that the property has come into your possession **as though** it were a gift. You are always on sound moral ground to reject a gift and to return it to its owner.

But suppose, when you start to communicate with the molestor, that he informs you that he didn't intend making a gift of the property. He simply wants you to

have it in your possession, but the property remains his. At this point, you can simply inform him that you do not act as a receiver of unwanted gifts and that in spite of his verbal protestations, you are viewing the property as an unwanted gift. You are clearly within both your power and your right to return it. This does not mean that you have somehow acquired a right to injure him. You are merely reducing the conflict to zero by the most expeditious and moral method.

Protection is always moral. The individual who thinks **protection** is engaged in long-range forecasting respecting his own life and property. Even though no protective device or practice could be presumed to offer total safety, nonetheless thinking in this area will tend to spur market-place action in an effort to devise even more satisfactory tools and methods.

Imagine a given situation in which the individual has protected himself to the limit of his ability, and in spite of this protection a molestor appears. Further, imagine that in this situation the only procedure the individual can conceive of as being effective would be his own descent to the level of his molestor so that he now relies upon violence to offset aggression. So, in spite of all arguments to the contrary, the individual decides that he must practice counter-molestation, either defensively or by seeking restitution or retaliation. Very well. Then he will undoubtedly act to molest. But the decision to molest is simply a decision to trespass a property boundary of another person against the will of that person. By definition, such trespass is immoral. What is important is that the individual who commits the act of counter-molestation realizes that his action is a wrongful act and totally non-productive. Further, it would be meaningful for him to realize that had he acted with sufficient forethought in relation to his own person and property, the contingency which finds him engaged in molesting another would not have arisen.

A failure to use the mind properly does not warrant a reclassification of immoral actions merely to try to assuage the conscience of the molestor. An act of molestation is wrong. An act of counter-molestation is also wrong, and for the same reason. The molestor need not attempt to create a halo of morality over his own action. Molestation is always possible. Anyone can commit such an action. The difficulty here is that some persons insist that an act of molestation when inspired by a prior act of molestation is somehow a moral act. This creates the novel concept that morality is based upon the situation of the moment and not upon principle. What this reveals is that most human beings wish to be moral in their behavior, and when, because of bad planning or because of injured egos or because of emotional insecurity they decide to molest another, they wish to reclassify the nature of the act. It is as though the individual says: "When you molest me, the act is immoral; when I molest you, I am always justified." Force is force. And what is wrong is wrong, irrespective of the name of the actor or the circumstances in which the act occurs.

When men are prepared to accept the principle of morality in place of a code of situational ethics, they will find no reason at all for retaliation, and in consequence they will find no reason for government. Until they recognize the principle of moral law as a principle, they will continue to justify retaliation. Even if they seek to avoid government and call their agency of retaliation by some other name, the trappings

and character of government remain. Those trappings and that character are locked up in the concept of sanctioned retaliation.

If we intend to propose seriously an improvement in our social relationships, we are going to have to abandon the use of force as a viable means of dealing with those who differ from us in their values and behavioral patterns.

Were the concept of retaliation abandoned, although some acts of molestation would probably continue to occur, the total cost to humanity would be but a fraction of the cost of vengeance, retaliation, and sanctioned molestation.

It is only when molestation is abandoned on principle that we have a chance of attaining to a state of justice.

Justice is a voluntary condition of fair and peaceful relationships. Force, molestation, property trespass, however rationalized, does not generate justice. Justice will emerge when we content ourselves with minding our own business and protecting our own lives and property, and when we thus abandon the notion that somehow we can rightfully injure others within a moral context.



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